

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3725 of 2012
and M.P.Nos.1 and 2 of 2012

The Professional Couriers
Rep. by its Manager
Ram Arcade
No.27, Munsiff Court Street
Opp. City Union Bank
Tiruppur-641 601

...Appellant/1st Respondent

-vs-

1.P.Balakrishnan

2.B.Shanthi ...Claimants/Respondents1 & 2

3.M/s.The New India Assurance Company Ltd.
Kumaran Shopping Complex
Kumaran Road
Tiruppur

4.R.Meena ... 3 & 4th Respondents/Respondents 2 & 3

Prayer: C.M.A., filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 03.03.2012 passed in E.C.No.80 of 2010 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coimbatore.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.P.M.Duraiswamy for R1 & R2
Mr.C.Ramesh Babu for R3
No appearance for R4.

O R D E R

This appeal has been brought by the Professional Couriers represented by its Manager Ram Arcade, assailing the impugned order passed by the Deputy Commissioner of Labour for Workmen's Compensation Act in E.C.No.80 of 2010 dated 03.03.2012, by which, the counsel appearing for the appellant/Employer submitted that when the Commissioner who is the Authority under

the Workmen's Compensation Act, has decided the claim made by the parents of the deceased viz., Suresh, who died in the Motor Vehicle Accident which took place on 14.02.2008, at about 5 am., and while fixing the compensation, the Authority, directed that the quantum of compensation is payable by the Insurance Company, employer and owner of the vehicle and simultaneously directed the respondents 1 to 3 before the E.C.80/2010 to make out the principal amount. As far as the interest amount, the Authority directed the employer and the owner of the vehicle to pay the same at the rate of 12% per annum jointly. The Authority, while directing so, relied on the Judgment of the Apex Court reported in P.J.Narayan Vs. Union of India and others [2004(1) ACJ 452].

2. Relying on the judgment of the Apex Court reported in P.J.Narayan Vs. Union of India and others [2004(1) ACJ 452], the learned counsel for the appellant would submit that when the ratio laid down in P.J.Narayan's case does not deal with neither the facts nor the law required to be applied in the present case, the Authority's direction to the employer to pay the interest amount, reflects the non-application of mind. He further submitted that while fixing the quantum of compensation, the Authority rightly directed the quantum of compensation to be paid by the Insurance Company, but, for no reason and against all the canons of law, directed both the employer and the owner of the vehicle to make out the interest part jointly.

3. It is a well settled legal proposition that when the liability is found against the Insurance company on the basis of Insurance coverage Policy, it goes without saying that the interest part amount shall be payable only by the Insurance company in the present case. However, the Commissioner/Authority under the Workmen's Compensation Act, placing reliance on the decision of the Apex Court in the decision cited supra [2004(1) ACJ 452] has pointed out wrongly and passed the award and in respect of interest portion, directed the employer to make payment, which cannot be said to be correct by looking it at any angle. Therefore, the impugned award insofar as the direction towards interest portion is liable to be set aside.

4. Accordingly, the impugned order passed in E.C.No.80 of 2010 dated 03.03.2012, in respect of direction towards payment of interest by the owner and employer is set aside. The third respondent\Insurance company is hereby directed to pay the interest at the rate of 12% per annum after 31st day from the date of the accident upto the date of this order. The calculation is as follows:-

The interest on award amount of Rs.4,36,940/- from 16.03.2008 to 02.08.2019 is Rs.5,96,423/-.

5. The learned counsel appearing for the 3rd respondent/Insurance company sought for two weeks time for making payment of interest amount as directed supra.

6. In view of the above, the 3rd respondent/Insurance company is given two weeks time for making payment of interest on the compensation amount. On such payment, the appellant herein is permitted to withdraw the interest part already deposited, as per the direction of the Deputy Commissioner and now held that the appellant herein/Professional Couriers is not liable to pay the same.

7. The Civil Miscellaneous Appeal is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

8. List the matter after two weeks "for compliance".

Sd/-
Assistant Registrar (Insp.cell)

//True copy//

Sub Assistant Registrar

nvsri

To

The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour), Coimbatore.

Copy To
The Section Officer/Posting,
Judicial Section,
High Court, Madras
(For compliance)

+1cc to Mr.K.Govi Ganesan, Counsel for Petitioner, SR.No.66564

+1cc to Mr.C.Ramesh Babu for R3, SR.No.66666

+1cc to M/s.P.M.Duraiswamy, Advocate sr.76346(04/09/2019)

C.M.A.No.3725 of 2012

NR (CO)
GMY (27/08/2019)